IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 32073

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO STRIKE.

Sham and irrelevant answers may be stricken from the files of the court on motion.

C. C. P. Section 453.

Irrelevant and redundant matter inserted in the pleading may be stricken out on motion upon such terms as the court may, in its discretion impose.

C. C. P. Section 453.

Respectfully submitted,

SCHAUER, RYON & McMAHON

By Harrison Ryon

Robert W. McMahon

Attorneys for Plaintiff.

SCHAUER, RYON & McMAHON
ATTORNEYS AT LAW
26 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS, Plaintiff, vs. ADOLPH B. SPRECKELS, Defendant.	NO. 32073 AFFIDAVIT OF EMILY HALL SPRECKELS IN SUPPORT OF MOTION TO STRIKE.

STATE OF CALIFORNIA)
) ss
COUNTY OF SANTA BARBARA)

EMILY HALL SPRECKELS, being duly sworn, deposes and says:

That she is the plaintiff in that certain divorce action now pending in the Superior Court of the State of California in and for the County of Santa Barbara, entitled "Emily Hall Spreckels, plaintiff, vs. Adolph B. Spreckels, defendant", and numbered 32073; that there was served upon her, through service upon her counsel, upon the 9th day of December, 1940, a document entitled "Answer", signed by and verified by the said defendant, Adolph B. Spreckels, which said purported Answer is on file herein.

That under a fair reading of said purported Answer within the four corners of the same, it does not meet the issues of your said plaintiff's complaint on file herein and in truth and in fact avoids and evades said issues and attempts to set up evasive and irrelevant and redundant and immaterial and inferential issues and matters.

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That in Paragraph I on page 1 of said Answer said defendant on lack of information and belief denies the residence of your said plaintiff during the year next preceding the time of the filing of the within action. That during said year next preceding the filing of the within action and for some time in addition thereto, the plaintiff and defendant were man and wife and the said defendant knew of his own knowledge that her residence was, and at all times during said period had been and continued to be, Santa Barbara County, California, and in truth and in fact, both parties maintained their said residence as husband and wife in Santa Barbara County, State of California during said period of time.

That in Paragraph III on pages 1 and 2 of said defendant's purported Answer, defendant evasively, trickily and with the intent to prejudice plaintiff, attempts to justify severely beating and injuring plaintiff by a false insinuation that plaintiff had had improper relations with other men contrary to her marriage vows; that said insinuation is in fact false, and that said defendant does not directly and/or positively allege such improper conduct but by insinuations and sham and evasive pleading, insinuates that such was his justification for administering said cruel and inhuman beating. That in truth and in fact, at no time or place has your plaintiff in any manner or form, during the married life of plaintiff and defendant, misconducted herself in connection with any man or men, in any manner or form whatsoever, nor has she ever told plaintiff that she had so done.

That in lines 13 to and including 16 on page 2, defendant states that he slapped your said plaintiff with his

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open hand and in the next breath denies that he attacked her or beat her at said time and place, to-wit: the 8th day of August, 1940. That in truth and in fact said plaintiff did at the time alleged in your plaintiff's said complaint, on the 8th day of August, 1940, attack your said plaintiff and cruelly beat her without just or any provocation therefor in the following manner: he dragged her from her bed by her hair and hit and struck her with his hand with such force as to knock her to the floor and then, again lifting her by her hair, struck her down to the floor two additional times in the same manner; and in addition thereto, struck her in the abdomen.

That in lines 17 to 22 inclusive, on page 2 of defendant's said purported Answer, said defendant, while admitting the use of alcoholic beverages to excesshimself, attempts to allege that plaintiff also used said alcoholic beverages to excess, which is a false and untrue admission and insinuation and merely placed in said Answer for the purpose of prejudicing and embarrassing said plaintiff. That in truth and in fact, said plaintiff, at no time during the married life of the said parties, has consumed any alcoholic liquor whatsoever to excess and has used wines to a most moderate extent only, while said defendant with regularity indulged in the use of strong alcoholic beverages to such an extent that on an average in excess of once a week, throughout the married life of plaintiff and defendant on and after the first day of October, 1939, he became violently intoxicated and intimidated your said plaintiff and upon numerous occasions committed acts of cruelty against her.

That in lines 23 to 32, inclusive, on page 2 of defendant's said purported Answer, and throughout pages 2 and 3 of the same, said defendant sets forth a long and

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extended statement covering alleged acts and conduct on the part of your plaintiff many years prior to the marriage of the plaintiff and defendant herein.

That the true facts in connection with these allegations and all of them are as follows:

That your said plaintiff, in the year 1929, married Maximilian von Romberg, a man born of an American Mother and a German Father, and a man who sincerely and affectionately loved the old Germany and the associations of his boyhood, which was partially spent in Germany; that, as the wife of the said Maximilian von Romberg, your plaintiff entertained numerous individuals with whom her said husband was acquainted, such as the German Prince, Louis Ferdinand; that at said time in the year 1934 when he was being entertained, there was considerable comment to the effect that the German Monarchy might be restored and in case said restoration took place, the said Maximilian von Romberg considered, together with the said German Prince, Louis Ferdinand, the possibility of his going over to Germany and taking up residence there under the said Monarchy and not under Adolph Hitler, as alleged by the defendant herein, Adolph Spreckels. That the said Maximilian von Romberg built himself, and from his own funds, that certain house occupied for over a year preceding the filing of this action by the said Adolph B. Spreckels and your said plaintiff as their home, and named the same "Brunninghausen" after the home of his forefathers in Germany. That the said house was wholly and completely constructed by the said Maximilian von Romberg and not by your plaintiff, Emily Hall Spreckels.

That your plaintiff caused no swastika of any kind or nature to be constructed in a prominent place, or in any place upon the exterior decorations of the said house, but in

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truth and in fact the said Maximilian von Romberg and the architect for the said house did place thereon an Indian swastika, which is a wholly different and other swastika than a German swastika, but that when the demonstrations and activities of the said Adolph B. Spreckels became so noticeable to the public that comment was caused by a swastika of any kind existing on the premises, even though the same was an Indian swastika and not a German swastika, your said plaintiff and deponent, Emily Hall Spreckels, had the same destroyed and that, thereupon, upon discovering this had been done, the said Adolph B. Spreckels flew into a violent rage and ordered the said Emily Hall Spreckels to have the same replaced, and when she refused to do so, threatened to file an action for divorce against her if she would not do so; that his anger lasted for some four days and that he, from time to time, demanded that she have the swastika replaced; that she refused so to do, did not do so and has not done so.

That on page 3 of said purported Answer, said defendant alleges as follows: "that during the period prior to the marriage of the plaintiff and defendant, plaintiff maintained in her home, "Brunninghausen", a statuary likeness of Adolph Hitler, which said likeness was kept by plaintiff in the library of her said home and was in said home at the time that defendant married the plaintiff and took up residence in said home;".

That in truth and in fact, the said so-called "statuary likeness of Adolph Hitler" was a ten or fifteen cent composition toy figure of the said Adolph Hitler of a height of approximately three inches, which, several years before the marriage of plaintiff and defendant had been sent to the said Maximilian von Romberg as a joke and that plaintiff had until a short time heretofore forgotten the existence of the said object and

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Santa Barbara, Calif.

that if the same was present in the library at the time of the marriage of your plaintiff and defendant, that fact is and was unknown to plaintiff.

That so far as your plaintiff knows, she at no time lost her American citizenship and has always remained and now is an American citizen, having been married to Maximilian von Romberg on the 14th day of April in the year 1929.

That your said plaintiff has never had any prejudice whatsoever against people of German descent and those fairly and truly representative of the old regime in Germany, and had and now has no particular interest in European politics. That several months after the marriage of your plaintiff and defendant, she came to appreciate and realize that the interest of the said Adolph B. Spreckels in the success of the present German regime in the present European war was a very real one, as is shown and admitted by him in his sworn statement made in his deposition taken on the 2nd day of October, 1940, in Santa Barbara, in the above entitled action, at which he was asked the question, "At numerous times while you were in New York, sir, you stated to mutual friends in the presence of your wife that you were very favorable to the Nazi Government of Germany, did you not?" to which he answered: "To intimate friends", and in the next question he was asked, "And you did that numerous times, did you not?". Answer: "Well, on several occasions when the discussion arose."

On the other hand your plaintiff has never, publicly or privately been favorable to or expressed herself to be favorable to the aims and acts of the present Nazi Regime of Germany; the said answer of said defendant does not allege that your plaintiff has so expressed herself, publicly or privately, but on the other hand attempts, indirectly, to insinuate and infer that plaintiff was favorable to the Nazi

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Regime and publicly so expressed herself without making a positive allegation that such is and/or was the case; said defendant does not deny that he made public demonstrations of sympathy with the Nazi regime of Germany, but attempts to justify such demonstrations as harmless pranks without any allegation that they were understood by those before whom they were made, to be but pranks and without allegation that he, the defendant, intended his actions to be understood as pranks. Plaintiff alleges that said defendant made said demonstrations in earnest and with the knowledge that she did not approve thereof and with the knowledge that plaintiff would be humiliated and insulted as a direct result thereof.

In Paragraph IV of the first defense in said answer contained said defendant attempts to evade the allegations in plaintiff's complaint regarding his wealth and income by saying he does not know how much he is worth or what his income is or how much was spent by him in maintaining the standard of living of the parties during their married life together.

In said Adolph B. Spreckels' answer to deponent Emily Hall Spreckels' second cause of action contained in her complaint, the said Adolph B. Spreckels sets forth a demurrer; that the said demurrer was previously presented to the above entitled Superior Court and decided adversely to the said Adolph B. Spreckels.

That in said defendant Adolph B. Spreckels' separate, second and further defense contained on page 8 of his purported answer, the said Adolph B. Spreckels pleads facts in part false and untrue, and in part true; that the true facts are as follows: that it is true that the plaintiff Emily Hall Spreckels did, throughout the married life of the said parties, many times forgive acts of cruelty on the part of the

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defendant Adolph B. Spreckels towards her, but that when she did so forgive said acts of cruelty, she forgave them conditionally upon their not being repeated, or other acts of cruelty being thereafter committed by him; that as can be ascertained from said defendant's answer itself, as a whole, the said defendant continued such acts of cruelty and by his conduct cummulated repeated acts of cruelty to such an extent that plaintiff was unable to longer endure the same and filed the within action.

Emily Hall Spreckels

Subscribed and sworn to before me
this 18th day of December, 1940.

Mabel Reynolds (SEAL)
Notary Public in and for the
County of Santa Barbara, State
of California.
My commission expires April 3, 1944

STRAUER, PEYTON & McMAHON
ATTORNEYS AT LAW
[illegible] EAST CARRILLO ST.
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 38073

AFFIDAVIT OF SERVICE OF NOTICE OF MOTION TO STRIKE, AFFIDAVIT OF EMILY HALL SPRECKELS IN SUPPORT OF MOTION TO STRIKE AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF SAID MOTION TO STRIKE.

STATE OF CALIFORNIA)
) ss
COUNTY OF SANTA BARBARA)

ANNA ROYKA, being first duly sworn, deposes and says:

That she is a citizen of the United States of America and a resident of the County of Santa Barbara, State of California and over the age of 21 years; that she is not a party to, nor interested in the above entitled action. That on the 19th day of December, 1940, she served the attached Notice of Motion to Strike, Affidavit of Emily Hall Spreckels in Support of Motion to Strike and Memorandum of Points and Authorities in Support of said Motion to Strike upon the above named defendant by personally delivering a true and correct copy thereof on said day to the attorneys of record herein for said defendant, at the offices of said attorneys at 21 East Canon Perdido Street, City of Santa Barbara, County of Santa Barbara, State of California, by leaving said copy with Mildred Krueger, who is secretary for a member of said firm, to-wit: Clarence Rogers, all other members of said firm of Heaney, Price, Postel and Parma being inaccessible to affiant, and none of said members

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appearing for purposes of delivery of said papers.

Dated: this 19th day of December, 1940.

Anna Boyle

Subscribed and sworn to before me
this 19th day of December, 1940.

Mabel Reynolds (SEAL)
Notary Public in and for said
County of Santa Barbara, State
of California.

SCHAUER, RYON
& McMAHON
ATTORNEYS AT LAW
28 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

STATE OF CALIFORNIA,
County of Santa Barbara } ss.

MARCELINE CRONAN, being first duly sworn, says: That affiant is a citizen of the United States and a resident of the County of Santa Barbara; that affiant is over the age of eighteen years and is not a party to the within and above entitled action; that affiant's ~~residence~~ business address is 26 East Carrillo Street, Santa Barbara, California

That on the 19th day of December, A. D., 19 40 affiant served the within Notice of Motion to Strike, Affidavit of Emily Hall Sprockels in Support of Motion to Strike and Memorandum of Points and Authorities in Support of said Motion to Strike

on the Attorney for Defendant in said action, by placing a true copy thereof in an envelope addressed to said Attorney at the ~~residence~~ business address of said Attorney, as follows:[1] Walter Slack, Attorney at Law, Balfour Building, San Francisco, California

and by then sealing said envelope and depositing the same, with postage thereon fully prepaid, in the United States Post Office at Santa Barbara, California. That there is delivery service by United States mail at the place so addressed and there is a regular communication by mail between the place of mailing and the place so addressed.

SUBSCRIBED AND SWORN to before me this 19th day of December, 19 40

Marceline Cronan

Mabel Reynolds
Notary Public in and for said County and State.

AFFIDAVIT OF SERVICE — ANY PAPER BY MAIL

[1] *Here quote from envelope name and address of addressee.*

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 32073

AFFIDAVIT OF DEFENDANT IN OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SANTA BARBARA)

ADOLPH B. SPRECKELS, being first duly sworn, deposes and says:

That he is the defendant in the above entitled action; that there is on file in this action a verified answer interposed on his behalf and that the verified answer interposed by him is made and filed in good faith on his part and that he expects to prove the averments therein contained and all of them upon trial of the cause to the satisfaction of the above named court.

Adolph B. Spreckels

Subscribed and sworn to before me
this 14th day of January, 1941.

Notary Public in and for the County
of Santa Barbara, State of California.

MEANEY, PRIDE, POSTEL & PARMA
SANTA BARBARA, CALIF.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 32073

AFFIDAVIT OF DEFENDANT IN OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SANTA BARBARA)

ADOLPH B. SPRECKELS, being first duly sworn, deposes and says:

That he is the defendant in the above entitled action; that he has fully and fairly stated the case and his defense to his attorneys, Messrs. Heaney, Price, Postel & Parma, and is advised by them and believes that he has a full, complete and meritorious defense to the action.

Adolph B. Spreckels

Subscribed and sworn to before me this 14th day of January, 1941.

Notary Public in and for the County of Santa Barbara, State of California.

HEANEY, PRICE, POSTEL & PARMA
SANTA BARBARA, CALIF.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,

IN AND FOR THE COUNTY OF SANTA BARBARA.

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 52075

ORDERS ON MOTION TO STRIKE ANSWER AND PORTIONS THEREOF.

After duly considering the argument herein on the various motions to strike the entire answer and portions and parts thereof on file herein,

IT IS ORDERED,

(1) That the motion to strike the entire answer be, and the same is, hereby denied.

(2) That the motion to strike from said answer the entire first defense therein contained be, and the same is, hereby denied.

(3) That the motion to strike paragraph I of said first defense contained in the said answer be, and the same is, hereby denied.

(4) That the motion strike Paragraph IV of said defense contained in the said answer be, and the same is hereby denied.

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D. C. CARROLL
D. L. HOSTOCK
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(5) That the motion to strike Paragraph V of said first defense contained in said Answer be, and the same is hereby denied.

(6) That the motion to strike all the material in said Paragraph I of the said first defense in said answer, commencing with the word "answering" in the middle of line 20 of the first page of said answer, to and including the word "thereof" on line 25 of said first page of said answer, be, and the same is, hereby granted.

(7) That the motion to strike all the material in said Paragraph III of the first defense in said answer, commencing with the word "Further" on line 1 of page 2 of said answer, to and including the word "thereafter" on line 12, page 2 of said answer, be, and the same is, hereby denied.

(8) That the motion to strike all the material in said Paragraph III of said first defense in said answer commencing with the word "Defendant" on line 13 of page 2 of said answer, to and including the word "time" on line 16, page 2, be, and the same is, hereby denied.

(9) That the motion to strike all the material in said Paragraph III of the said first defense in said answer set forth, beginning with the word "defendant" on line 17 of Page 2 of said answer, to and including the word "excess" on line 22 of Page 2 of said answer, be, and the same is, hereby granted.

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O. C. REPORTER
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(10) That the motion to strike all the material in said Paragraph III of said first defense beginning with the word "defendant" on line 25, Page 2 of said answer, to and including the word "activities" on line 6, Page 5 of said answer, be and the same is, hereby denied.

(11) That the motion to strike all the material in said Paragraph III of said first defense in said answer commencing with the word "That" on line 25, Page 2 of said answer, to and including the word "Santa Barbara" in line 2, Page 3 of said answer, be, and the same is, hereby denied.

(12) That the motion to strike all the material in said Paragraph III of said first defense in said answer, commencing with the word "that" in line 2, Page 3 of said answer, to and including the word "Reifenstahl" in line 4, page 3 of said answer, be and the same is, hereby granted.

(13) That the motion to strike all the material in Paragraph III of said first defense in said answer, commencing with the word "who" on line 4, Page 3, to and including the word "Hitler", on line 6, Page 3 of said answer, be and the same is, hereby granted.

(14) That the motion to strike all the material in Paragraph III of said first defense in said answer commencing with the word "that" on line 9, Page 3 of said answer, to and including the word "defendant" on line 17,

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Page 3 of said answer be, and the same is, hereby granted.

(15) That the motion to strike all the material from said answer commencing with the word "that" on line 17, page 3, Paragraph III of said first defense, to and including the word "Swastika" on line 24, Page 3 of said answer, be and the same is, hereby granted.

(16) That the motion to strike all the material in said Paragraph III of said first defense in said answer, commencing with the word "that" on line 24, page 3, to and including the word "home" on line 29, page 3, be, and the same is, hereby denied.

(17) That the motion to strike all the material in said Paragraph III of said first defense in said answer, commencing with the word "that" on line 29, page 3 of said answer, to and including the word "place" on line 2 of page 4, be, and the same is, hereby denied.

(18) That the motion to strike all the material in said Paragraph III of the first defense in said answer commencing with the word "that" on line 2 of page 4, to and including the word "request" on line 5, page 4 of said answer, be, and the same is, hereby denied.

(19) That the motion to strike all the material in said Paragraph III of said first defense in said answer, commencing with the word "that" on line 5, page 4, to and including the word "Government" on line 7, page 4, be, and the same is, hereby denied.

(20) That the motion to strike all the material in said Paragraph III of the first defense set forth in said answer, commencing with the word "Particularly" on line 7 page 4 of said answer, to and including the word "there" on line 3, page 5 of said answer, be, and the same is hereby granted.

(21) That the motion to strike all the material in said Paragraph III of said first defense in said answer, commencing with the word "that" on line 3, page 5 of said answer, to and including the word "activities" on line 6, page 5 of said answer, be, and the same is, hereby granted.

(22) That the motion to strike all the material in said Paragraph III of said first defense in said answer, commencing with the word "Defendant" on line 7, page 5 of said answer, to and including the word "defendant" on line 10, page 5 of said answer, be, and the same is, hereby granted.

(23) That the motion to strike all the material in said Paragraph III of said first defense in said answer, commencing with the word "Defendant" on line 11, page 5 of said answer, to and including the word "salute" on line 19, page 5 of said answer, be, and the same is, hereby granted.

(24) That the motion to strike from said Paragraph III of said first defense in said answer, all the material commencing with the word "Defendant" on line 20, page 5

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of said answer, to and including the word "be" on line 22, page 5 of said answer, be, and the same is, hereby denied.

(25) That the motion to strike from said Paragraph III of said first defense in said answer, all the material contained therein commencing with the word "Further" on line 29, page 5 of said answer, to and including the word "herein" on line 1, page 6 of said answer, be, and the same is, hereby denied.

(26) The motion to strike from said answer the whole of said defendant's answer to plaintiff's second cause of action, be, and the same is, hereby denied.

(27) The motion to strike from said answer Paragraphs I, II and III of said answer to plaintiff's second cause of action, be, and the same is, hereby granted.

(28) That the motion to strike from said answer all of the second, separate and further defense in said answer set forth, be, and the same is, hereby denied.

Dated: February 15, 1941.

Judge